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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

OFFICE OF PETITIONS

In re Application of
John H. Stevens
Application No. 10/047,581
Filed: October 21, 2001
Attorney Docket No. HRT-287

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed application set forth in the amendment filed with the present petition.

The petition is DISMISSED.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The amendment filed with the present petition lists the filing date of Application No. 08/615,481 as March 25, 1996. However, Office records show that the correct filing date for Application No. 08/615,481 is March 15, 1996. Therefore, before the petition under 37 CFR 1.178(a)(3) can be granted, a renewed petition and either an Application

Data Sheet (ADS) or substitute amendment should be submitted, which sets forth the correct filing date of Application No. 08/615,481.

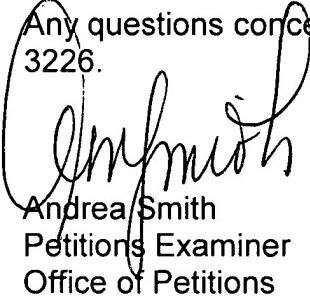
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Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions